

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

O R D E R

Jasbeer Singh & Anr. v. State of Rajasthan & Anr.

S.B.CIVIL WRIT PETITION NO.1284/1996
under Article 226 of the
Constitution of India.

Date of Order : 24th May, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma, for the petitioners.
Mr. B.L.Tiwari, Addl.Govt.Advocate.

BY THE COURT :

Heard counsel for the parties.

The proceedings were initiated against father of the petitioners under the provisions of Chapter III-B of the Rajasthan Tenancy Act, 1955 for determining surplus land occupied. The Sub Divisional Officer concerned after making requisite inquiry reached at the conclusion that no surplus land was available with Shri Gurdayal Singh, father of the petitioners, accordingly the proceedings were dropped by an order dated 8.9.1971.

The Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter referred to as "the Act of 1973") came into force on 1.1.1973. An amendment was introduced under Section 15 of the Act of 1973 vide the Amendment Act No.6/79. By this amendment the limitation prescribed under Rule 15 for reopening of ceiling cases was fixed for a period of six years from the date of commencing of the Act of 1973.

As stated above, the Act of 1973 was commenced w.e.f. 1.1.1973, therefore, in light of the provisions of Section 15 of the Act of 1973 the State Government was empowered to reopen ceiling cases under the New Act i.e. the Act of 1973 upto 1.1.1979.

The State Government while exercising powers under Section 15 of the Act of 1973 by an order dated 24.11.1994 reopened the ceiling case against the petitioners.

The contention of the counsel for the petitioners is that reopening of ceiling case against them is without jurisdiction as in light of Section 15 of the Act of 1973 the case could have been reopened prior to 1.1.1979. Counsel for the petitioners has substantiated the argument by a Division Bench judgment of this Court rendered in Dhanraj & Ors. v.

State of Rajasthan, reported in 1995 RRD 115. In the aforesaid case Division Bench of this Court held as under:-

“This submission is ill-founded and unsustainable in law. A perusal of the Amending Act will show that the amendments were made with retrospective effect and it was provided that the provisions shall be deemed to have been incorporated in the Act from the date of commencement of the Amending Act, therefore, the amendment 15 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 will have to be read as amended, as the amendment is deemed to have been always made. The established cannons interpretation of statute require that plain meaning should be given to the words and phrases occurring in statute and consequently the words 'within 6 years of the commencement of this Act' must necessarily mean commencement of the Ceiling Act 1973 and not the Amending Act so considered. The notice issued on 7th Feb. 1980 is obviously beyond 6 years. The period of 6 years has been expired on 1.1.1979, the State Government therefore, had no power or jurisdiction under section 15 of the Ceiling Act to direct reopening of the cases of the petitioners. In these three petitions, the notices and proceedings in pursuance thereto are thus illegal and void for total lack of jurisdiction, the same are, therefore, quashed and set aside. The orders passed by the Sub Divisional Officers are thereby restored and maintained. However, in the circumstances of the case, there will be no order as to costs.”

In view of the provisions of Section 15 of the Act of 1973 as interpreted by Division Bench of this Court in the case of Dhanraj (supra), the State Government was empowered to reopen ceiling cases only upto 1.1.1979. In the present case admittedly the case against the petitioners under the Act of 1973 was ordered to be reopened by order dated 24.11.1994 by the State Government. The State Government on 24.11.1994 was lacking jurisdiction to reopen the ceiling case. Accordingly the order dated 24.11.1994 is without jurisdiction and, therefore, deserves to be quashed.

The writ petition preferred by the petitioner is, therefore, allowed and the order impugned dated 24.11.1994 is hereby quashed.

(GOVIND MATHUR), J.

kkm/ps.